1	BILL LOCKYER, Attorney General of the State of California PAUL C. AMENT, State Bar No. 60427 Supervising Deputy Attorney General ELAINE GYURKO Senior Legal Analyst California Department of Justice	
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4		
5	300 South Spring Street, Suite 1702 Los Angeles, California 90013	
6	Telephone: (213) 897-4944 Facsimile: (213) 897-9395	
7	Attorneys for Complainant	
8		
9	BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10		
11	STATE OF CALL	FORMA
12	In the Matter of the Statement of Issues Against:	Case No. S-360
13	DON HOWARD MASTERSON, JR. 1304 Wilson Avenue	STIPULATION FOR ISSUANCE
14	Bakersfield, California 93308	OF LICENSE AND PUBLIC REPRIMAND
15	Respondent.	KEI KIMAND
16		
17	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the	
18	above-entitled proceedings that the following matters are true:	
19	<u>PARTIES</u>	
20	1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory	
21	Care Board of California (Board). She brought this action solely in her official capacity, and is	
22	represented in this matter by Bill Lockyer, Attorney General of the State of California, by Elaine	
23	Gyurko, Senior Legal Analyst.	
24	2. Don Howard Masterson, Jr. (Respondent) is representing himself in this	
25	proceeding and has chosen not to exercise his right to be represented by counsel.	
26	3. On or about June 20, 2005, Respondent submitted an application for	
27	licensure to the Board. On or about November 7, 2005, the Board denied Respondent's	
28	application. On or about December 12, 2005, Respondent requested a hearing.	

<u>JURISDICTION</u>

4. Statement of Issues No. S-360 was filed before the Board, and is currently pending against Respondent. The Statement of Issues, together with all other statutorily required documents, was properly served on Respondent on March 30, 2006, and Respondent filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. S-360 is attached as Exhibit 1 and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read and understands the charges and allegations in Statement of Issues No. S-360. Respondent has also carefully read and understands the effects of this Stipulation for Issuance of License and Public Reprimand.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. S-360.
- 9. Respondent agrees that his Respiratory Care Practitioner License application is subject to denial, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

NON-COMPLIANCE WITH ORDER

10. In the event Respondent fails to comply with the terms of this Stipulation for Issuance of License and Public Reprimand, such failure shall be deemed a violation of

Business and Professions Code section 3750, subdivision (g), and the Board, after giving notice 1 2 and the opportunity to be heard, may take additional disciplinary action against Respondent. 3 **CONTINGENCY** 11. 4 This stipulation shall be subject to approval by the Board. Respondent 5 understands and agrees that the Board's staff and counsel for Complainant may communicate 6 directly with the Board regarding this stipulation and settlement, without notice to or participation 7 by Respondent. If the Board fails to adopt this stipulation as its Decision and Order, the 8 Stipulation for Issuance of License and Public Reprimand shall be of no force or effect (except for 9 this paragraph), it shall be inadmissible in any legal action between the parties, and the Board shall 10 not be disqualified from further action by having considered this matter. 11 12. The parties understand and agree that facsimile copies of this Stipulation 12 for Issuance of License and Public Reprimand, including facsimile signatures thereto, shall have 13 the same force and effect as the originals. 14 13. In consideration of the foregoing admissions and stipulations, the parties 15 agree that the Board may, without further notice or formal proceeding, issue and enter the 16 following Disciplinary Order: 17 18 **DISCIPLINARY ORDER** 19 IT IS HEREBY ORDERED that Respondent Don Howard Masterson, Jr. shall be 20 issued a Respiratory Care Practitioner License which is publicly reprimanded by the Respiratory 21 Care Board of California. This document shall constitute the formal public reprimand. The 22 Board agrees to issue a license and Respondent agrees to the following terms and conditions: 23 A. No further violation of the law will occur; and 24 B. He shall pay to the Board costs of investigation and prosecution of this matter 25 in the amount of \$1,288.00. This amount shall be paid in quarterly increments within 12 26 months of the effective date of this decision. 27 // 28

1 <u>ACCEPTANCE</u> 2 I have carefully read the Stipulation for Issuance of License and Public Reprimand, 3 and I fully understand the terms and conditions and other matters contained therein. I understand the effect this stipulation will have on my Respiratory Care Practitioner License that is issued. I 4 5 enter into this Stipulation for Issuance of License and Public Reprimand voluntarily, knowingly, 6 and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board. 7 DATED: May 31, 2006. 8 9 Original signed by: DON HOWARD MASTERSON, JR. 10 Respondent 11 12 13 14 **ENDORSEMENT** 15 The foregoing Stipulation for Issuance of License and Public Reprimand is hereby 16 respectfully submitted for consideration by the Respiratory Care Board of the Department of 17 Consumer Affairs. 18 DATED: June 21, 2006. 19 BILL LOCKYER, Attorney General of the State of California 20 21 Original signed by: ELAINE GYURKO 22 Senior Legal Analyst 23 Attorneys for Complainant 24 25 26 27 28

BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

Case No. S-360

DON HOWARD MASTERSON, JR. 1304 Wilson Avenue Bakersfield, California 93308

Respondent.

DECISION AND ORDER

The attached Stipulation for Issuance of License and Public Reprimand is hereby adopted by the Respiratory Care Board of the Department of Consumer Affairs as its Decision in this matter.

This Decision shall become effective on September 15, 2006 It is so ORDERED September 6, 2006

Original signed by:

LARRY L. RENNER, BS, RRT, RPFT PRESIDENT, RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA